

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

This is an application by the Tenant for dispute resolution for a monetary order for compensation for loss under the Act, return of the security deposit and recovery of the filing fee.

Both parties attended by conference call and gave affirmed testimony.

Issues(s) to be Decided

Is the Tenant entitled to a monetary order for compensation for loss under the Act?

Is the Tenant entitled to a monetary order for the return of the security deposit?

Background and Evidence

This Tenancy began on June 1, 2009 on a month to month basis. The monthly rent was \$950.00 payable at the end of each month, plus half of the hydro bill. A security deposit of \$475.00 was paid on June 1, 2009. A mutual agreement to end the tenancy was made on July 7, 2010 to end the tenancy on July 31, 2010. On July 30, 2010 the Tenant vacated the rental unit and provided to the Landlord's agent a written notice of their forwarding address for the return of the security deposit. The Landlord's agent agrees that this was done and that the security deposit was owing to the Tenant. The Landlord has not filed for dispute resolution or returned the security deposit within 15 days of receipt of that notice or the end of tenancy date. The Tenant is making a claim for the return of double their security deposit of $\$475.00 \times 2 = \950.00 .

The Tenant has also made a claim for compensation for loss of quiet enjoyment in the amount of \$950.00, the equivalent of one month's rent. The Tenant's evidence of their quiet enjoyment being infringed starting at the end of June 2010, when they were

notified of the property being put on the market to be sold. The Tenant has stated that several times 24 hour notice of sales showings were not properly served. The Landlord states that 6 such notices were not made because of inadequate 24 hour notice being made to the Tenant. The Tenant cites an issue where the Landlord appeared yelling and swearing at the Tenant's for giving a key to a friend for checking on their cat at the rental unit and how the cat poops in the garden repeatedly. A conversation followed this by the Landlord and Tenant that this unfortunate incident took place and that the issues were settled. The Landlord states that issues resulted from a he said, she said set of incidents.

Analysis

I am satisfied that written notice was made to the Landlord of a forwarding address was made at the end of the tenancy on July 30, 2010.

Section 38(1) of the Act provides that within 15 days after the later of the date the tenancy ends and the date the Landlord receives the Tenant's forwarding address in writing, the Landlord must either repay the entire security deposit to the Tenant or file an application for dispute resolution claiming against the deposit. In the present case, the Landlord has done neither.

Section 38(6) provides that if a Landlord does not comply with section 38(1), the Landlord may not make a claim against the deposit and must pay the Tenant double the amount of the security deposit.

Based on the above, I find that the Tenant is entitled to an order that the Landlord pay to the Tenant double the security deposit. I therefore order that the Landlord pay to the Tenant the sum of \$950.00 representing double the deposit on the original amount. I further order that the Landlord bear the \$50.00 cost of this application. This order may be filed in Small Claims Court and enforced as an order of that Court.

I find that the Tenant has failed to show that there has been a substantial interference with the ordinary and lawful enjoyment of the premises by the Landlord's action that rendered the premises unfit for occupancy for the purposes for which they were leased. The Tenant's claims were confined to the last month of tenancy prior to ending it. Prior to this the Tenant and Landlord both state that there were no issues of complaint. The

Tenant states on one occasion that an issue with neighbours regarding parking was settled with the assistance of the Landlord. I dismiss the Tenant's claim for loss of quiet enjoyment.

Conclusion

I grant the Tenant's application for a monetary order of \$1,000.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 08, 2010.

Dispute Resolution Officer